

BEFORE THE FOOD AND DRUG ADMINISTRATION

In the matter of:

**Dockets 02N-0276, 02N-0278
(Bio-terrorism and the Food Supply)**

Filed by:

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**Clifford J. Harvison
President**

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Before the Administrator:

National Tank Truck Carriers is a trade association composed of approximately 180 trucking companies that specialize in the cargo tank and dry bulk trailer transportation of a variety of bulk commodities. At least 30 of our members are substantially engaged in the transportation of liquid and dry food products in bulk.

Our comments will discuss only transportation of food products in bulk. These materials include such liquid commodities as corn syrups, orange juice, wine, milk, chocolate, and liquid sugars, and dry materials such as flour and cornstarch.

There are two types of trucking fleets. Private fleets are companies that produce a product and use their own trucks in manufacturing and distributing that product. For-hire fleets own trucks, which they use to haul products for compensation from manufacturers of the bulk materials. They provide a transportation service to whatever customer buys that service. NTTC represents the for-hire fleets.

Our comments involve several questions about applicability of the new regulations to trucking companies. In most cases, we do not believe that the regulations do or should apply, but we urge the Administrator to address these questions.

Docket 02N-0276 Registration of Food Facilities

Who must Register?

As for-hire trucking companies, NTTC members do not manufacture foods and we do not believe that they should be required to register as food facilities.

21CFR 1.225 "Holding." On some occasions, a carrier may park a loaded trailer at its terminal for further dispatch which would normally occur within 24 hours of loading. The food remains in the trailer. Would this meet the definition of "holding" which would require the carrier to register?

21CFR 1.225 "Packing" Some tank truck carriers may have a rail siding where food is stored in a railcar until loaded into a trailer for further delivery. Would the process of transferring the product from the railcar to the tank truck on terminal property require the carrier/terminal operator to register?

If the Administrator determines that such activities cause the trucking company to meet the definition of “facilities,” details on minimum amounts of product and storage times to be covered should be well explained.

Docket 02N-0278 (Prior Notice of Imported Food Shipments)

NTTC members do transport food products in tank and bulk trailers across the borders from Canada and Mexico. They also transport intermodal tank containers of food products that enter the United States by rail or water modes. We agree with the Administrator that any prior notice to FDA must be provided by the shipper/manufacturer/distributor of the product. We request that no compliance responsibilities, including carrying documentation of prior notice, be placed on the carrier or the carrier’s agents (drivers).

21CFR Sec. 1.278 (d)

This section provides that the person submitting prior notice or the carrier must arrange for movement, under custodial bond, and storage of food if prior notice was not provided or was not correctly provided. The person submitting notice or the carrier also must notify FDA of the location of where the food is being held. It also provides that: “Transportation and storage expenses shall be borne by the owner, purchaser, importer, or consignee.”

NTTC does not believe that the carrier should have these responsibilities imposed by regulation. The carrier’s role is to pick the product up at Point A and to take it to Point B. Any compliance and notification requirements should be the responsibility of the person selecting the transporter and the party responsible for providing notice.

We also are concerned that by listing four possible sources of payment for additional transportation and storage expenses due to failure to notify or improper notification, FDA will make it difficult for the carrier to collect payment. We envision different parties telling the carrier to collect from someone else. We request that this section direct that any additional costs due to transportation or storage must be paid by the party that arranged for transportation—the shipper.

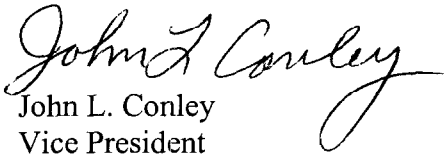
21CFR 1.288 (q)

This section proposes that information provided for importing food into the United States must include the names, addresses, phone numbers, fax numbers and e-mail addresses of all carriers which are or will be carrying the article of food from the country from which the article of food was shipped to the United States, and the carriers’ Standard Carrier Abbreviation Codes, if appropriate. It is our understanding that this section does not require the carrier to be registered with FDA. Is our understanding correct?

Food Packagings

It was stated at the January 29 Outreach Downlink Session that food package manufacturers might have to register as facilities. We understand that manufacturers of tank trailers used to transport food products would not have to register. Is our understanding correct?

Respectfully submitted,


John L. Conley
Vice President